

## Appendix A

### LEGISLATION

#### 8. Cape Lookout

**An Act to provide for the establishment of the Cape Lookout National Seashore in the State of North Carolina, and for other purposes. (80 Stat. 33)**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in order to preserve for public use and enjoyment an area in the State of North Carolina possessing outstanding natural and recreational values, there is hereby authorized to be established the Cape Lookout National Seashore (hereinafter referred to as "seashore"), which shall comprise the lands and adjoining marshlands and waters on the outer banks of Carteret County, North Carolina, between Ocracoke Inlet and Beaufort Inlet, as generally depicted on the map entitled "Proposed Boundaries—Proposed Cape Lookout National Seashore", dated April 1964, and numbered NS-CL-7101-B, which is on file in the Office of the National Park Service, Department of the Interior: *Provided, however,* That such seashore shall not include those lands and interests in lands which are bounded on the north by the southerly boundary of the Cape Lookout lighthouse property, on the east by a line located seven hundred and fifty feet inland from the mean high water line of the Atlantic Ocean, on the south by the northerly boundary of property now owned or leased by the United States Coast Guard and other Federal agencies, and on the west by the easterly boundary of property of the Thomas Gold heirs (as shown on a map prepared by J. G. Hassel in October 1961 and recorded at page 4 of Map Book Numbered 6 in the office of the Register of Deeds, Carteret County, North Carolina) and the waters of Lookout Bight.

SEC. 2. (a) Notwithstanding any other provision of law, Federal property located within the boundaries of the Cape Lookout National Seashore may, with the concurrence of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary of the Interior for the purposes of the seashore. Such transfer shall be made without transfer of funds. Non-Federal lands, marshlands, waters, or interests therein located within the authorized seashore may be acquired by the Secretary of the Interior only through donation, except that he may purchase with donated or appropriated funds, or may acquire by exchange, the lands, marshlands, and waters or interests therein comprising the Shackleford Banks. Land donated by the State of North Carolina pursuant to this subsection shall constitute consideration for the transfer by the United States of 1.5 acres of land that is to be used as a site for a public

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health facility in the village of Hatteras, Dare County, North Carolina.

(b) When acquiring lands by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the seashore and convey to the grantor of such property any federally owned property in the State of North Carolina under his jurisdiction which he classifies as proper for exchange or other disposition. Failing to effectuate an exchange of properties of approximately equal fair market value, the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

(c) Any person who on January 1, 1966, owned property which on July 1, 1963, was developed and used for noncommercial residential purposes may reserve for himself and his assigns, as a condition to the purchase or acquisition by exchange of such property by the Secretary, a right of use and occupancy of the residence and not in excess of three acres of land on which the residence is situated, for noncommercial residential purposes for a term ending at the death of the owner, or the death of his spouse, or the death of either of them, or, in lieu thereof, for a definite term not to exceed twenty-five years: *Provided*, That the Secretary may exclude from such reserved property any marsh, beach, or waters, together with so much of the land adjoining such marsh, beach, or waters as he deems necessary for public access thereto. The owner shall elect the term of the right to be reserved. The Secretary is authorized to accept donations of property for purposes of the seashore in which a right of use and occupancy for noncommercial residential purposes is reserved for the period stated in this subsection if the land on which the residence is situated and to which the right attaches is not in excess of three acres and there is excluded from the reserved property such marsh, beach, or waters and adjoining land as the Secretary deems necessary for public use and access thereto.

(d) A right of use and occupancy reserved in lands that are donated or otherwise acquired pursuant to this section shall be subject to termination by the Secretary upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of this Act and upon tender to the holder of the right of an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(e) The Secretary of the Interior is authorized to purchase with donated or appropriated funds, or acquire by exchange, not to exceed one hundred acres of lands or interests in lands at or near Beaufort, North Carolina, as an administrative site, and for a landing dock and re-

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lated facilities that may be used to provide a suitable approach or access to the seashore.

SEC. 3. When title to the lands and interests in lands which under section 2(a) of this Act may be acquired for the purposes of the seashore by donation only is vested in the United States, the Secretary shall declare the establishment of the Cape Lookout National Seashore by publication of notice thereof in the Federal Register. Such notice shall contain a refined description or map of the boundaries of the seashore as the Secretary may find desirable and such exterior boundaries shall encompass, as nearly as possible, the area generally described in section 1 of this Act. Copies of said description or map shall be furnished to the Speaker of the House and the President of the Senate not less than thirty days prior to publication in the Federal Register. Following such establishment, and subject to the limitations and conditions prescribed in this Act, the Secretary may, subject to the provisions of section 2 hereof, acquire the remainder of the lands and interests in lands within the boundaries of the seashore.

SEC. 4. The Secretary shall permit hunting and fishing, including shellfishing, on lands, marshlands, and waters under his jurisdiction within the Cape Lookout National Seashore in accordance with the laws of the State of North Carolina and the United States, to the extent applicable, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the North Carolina Wildlife Resources Commission and the North Carolina Department of Conservation and Development.

SEC. 5. The Secretary shall administer the Cape Lookout National Seashore for the general purposes of public outdoor recreation, including conservation of natural features contributing to public enjoyment. In the administration of the seashore and the administrative site, the Secretary may utilize such statutory authorities relating to areas administered and supervised by the Secretary through the National Park Service and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate to carry out the purposes of this Act.

SEC. 6. The authority of the Chief of Engineers, Department of the Army, to undertake or contribute to shore erosion control or beach protection measures within the Cape Lookout National Seashore shall be exercised in accordance with a plan that is mutually acceptable to the Secretary of the Interior and the Secretary of the

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Army, and that is consistent with the purposes of this Act.

SEC. 7. There are hereby authorized to be appropriated not to exceed \$3,200,000 for the acquisition and development of the seashore in accordance with the purposes of this Act.

Approved March 10, 1966.

*Legislative History*

House Report No. 1278 accompanying H.R. 1784 (Committee on Interior and Insular Affairs).

Senate Report No. 509 (Committee on Interior and Insular Affairs).

Congressional Record:

Vol. 111 (1965): July 27, considered and passed Senate.

Vol. 112 (1966):

Feb. 16, considered and passed House, amended, in lieu of H.R. 1784.

Feb. 23, Senate concurred in House amendment with an amendment.

Feb. 28, House concurred in Senate amendment.

**4. Cape Lookout**

**An Act to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, to authorize appropriations for additional costs of land acquisition for the National Park System, and for other purposes. (88 Stat. 1445) (P.L. 93-477)**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## TITLE IV—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

## CAPE LOOKOUT NATIONAL SEASHORE

SEC. 406. The Act of March 10, 1966 (80 Stat. 33; 16 U.S.C. 459g) providing for the establishment of Cape Lookout National Seashore in the State of North Carolina is amended as follows:

(1) Section 1 is amended by deleting “‘Proposed Boundaries—Proposed Cape Lookout National Seashore’, dated April 1964, and numbered NS-CL-7101-B,” and substituting in lieu thereof “‘Boundary Map, Cape Lookout National Seashore’, dated March 1974, and numbered 623-20,009,” and by changing the colon to a period and deleting the remainder of the section.

(2) Subsection 2(a) is amended by deleting the third sentence and inserting in lieu thereof the following: “Lands owned by the State of North Carolina or any political subdivision thereof may be acquired only by donation, but the Secretary may, subject to the provisions of section 7 of this Act, acquire any other non-Federal lands, marshlands, waters, or interests therein which are located within the boundaries of the seashore by donation, purchase with donated or appropriated funds, or exchange. Notwithstanding any other provision of law, the Secretary may accept any lands donated by the State of North Carolina subject to a provision for reversion to the State conditioned upon continued use of the property for national seashore purposes.”

(3) Section 3 is amended by revising the first sentence to read as follows: “When title to lands and interests in lands in an amount sufficient to constitute an efficiently administrable unit for the purposes of this Act is vested in the United States, the Secretary shall declare the establishment of the seashore by publication of notice thereof in the Federal Register.”

(4) Section 7 is amended to read as follows:

“SEC. 7. On or before January 1, 1978, the Secretary shall review the area within the seashore and shall report to the President, in accordance with section 3 (c) and (d) of the Wilderness Act (78 Stat. 891; 16 U.S.C.

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1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area within the seashore for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.”

(5) Add a new section 8 to read as follows:

“SEC. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, not to exceed \$7,903,000 for acquisition of lands and interests therein, of which no more than \$1,000,000 may be expended for acquisition of lands owned by Core Banks Club Properties, Incorporated. For development of essential public facilities there are authorized to be appropriated not more than \$2,935,000. On or before January 1, 1978, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the full development of the seashore consistent with the preservation objectives of this Act, indicating—

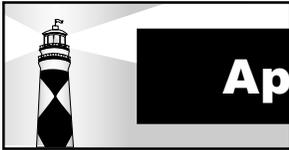
“(1) the facilities needed to accommodate the health, safety and recreation needs of the visiting public;

“(2) the location and estimated cost of all facilities; and

“(3) the projected need for any additional facilities within the seashore.”

\* \* \* \* \*

Approved October 26, 1974.



## Appendix B

### PREPARERS AND CONTRIBUTORS

#### National Park Service Planning Team

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## Appendix C

### REFERENCES

#### List of References

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- National Park Service. 1995 Draft Environmental Assessment: Alternative for Managing the Feral Horse Herd on Shackleford Banks, Cape Lookout National Seashore.
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- Quible and Associates, P.C. Environmental Assessment: Core Sound Waterfowl Museum, Harkers Island, Carteret County, NC. Kitty Hawk, NC. 1996
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- U.S. Fish and Wildlife Service. 1995. Piping Plover (*Charadrius melodus*), Atlantic Coast Population, Revised Recovery Plan. Technical/Agency Draft. Hadley, Massachusetts. 238 pp.
- U.S. Fish and Wildlife Service. 1988. Atlantic Coast Piping Plover Recovery Plan. U.S. Fish and Wildlife Service, Newton Corner, MA. 77pp.

#### World Wide Web Sources of Information

- America's National Wildlife Refuges... Where Wildlife Comes Naturally! Seabeach Amaranth. IV. Threats and Population Limiting Factors. At <http://bluegoose.arw.r9.fws.gov/NWRSFiles/WildlifeMgmt/Spec.../SeabeachAmaranthRec.htm>
- Coastal Wetlands: Get to Know Them. At <http://dcm2.ehnr.state.nc.us/Wetlandsknow.htm>
- Cox, Vernon N., Leon E. Danielson, and Dana L. Hoag. Wetland Regulation in North Carolina. Resource Economic and Policy,

Applied Resource Economics and Policy Group, Department of Agricultural and Resource Economics, North Carolina State University, Raleigh, NC. At <http://www.bae.ncsu.edu/bae/programs/extension/publicat/arep/wetlands.html>

Developing Under CAMA: AECs. At <http://dcm2.ehnr.state.nc.us/Rules&Permits/develop1.htm>

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National Weather Service Office. 1999. North Carolina's Southern Coastal Weather Averages: Ocracoke Island to Wilmington. Newport, NC at <http://www.icw-net.com/weather/clochart.htm>

The Value of Wetlands at <http://ces.soil.edu/soilscience/publications/Soilfacts/AG-439-26/body.htm>

Wetland Conservation Plan. At [http://dcm2.ehnr.state.nc.us/Wetlands/wetland\\_conservation\\_plan.htm](http://dcm2.ehnr.state.nc.us/Wetlands/wetland_conservation_plan.htm)

### **Compliance Requirements**

Cape Lookout National Seashore must comply with the following laws.

1. North Carolina Coastal Area Management Act (CAMA) of 1974. Regulated by Division of Coastal Management. Cape Lookout National Seashore is an Area of Environmental Concern (AEC) and the proposed development will require review by the Coastal Resources Commission.
2. Water Resources Development Act of 1976 (P.L. 94-587)
3. Water Quality Considerations - no Section 401 water quality certification is being requested for the proposed project.
4. Flood Plain Management. The proposed action is located in the flood plain and has been evaluated for adherence to the requirement of the order. No practicable alternative to the project being located within the floodplain exists. The action will be in compliance with State/local flood plain protection standards and Executive Order 11988, Flood Plain Management.
5. Protection of Wetlands, Executive Order 11900. This project will not affect wetlands.
6. Protection and Enhancement of the Cultural Environment, Executive Order 11593. The proposed plan does not affect any known National Register criteria.
7. Threatened and Endangered Species Act. Informal consultation with the U.S. Fish and Wildlife Service has been conducted the determination that no threatened or endangered species will be adversely affected by the proposed action.
8. Executive Order 11988, "Floodplain Management" (42 U.S.C. 4321)



## COMMENTS AND RESPONSES FOR JULY 1999 DRAFT PLAN

### Comments and Responses

This appendix responds to comments about the Draft GMP/EA issued in July 1999.

**Comment:** The GMP of 1982 was outdated, inadequate, and incomplete; specifically, it failed to assess the effects of its actions on listed species. Thus the NPS violated its own policies by amending the GMP rather than developing a new one.

**Response:** The NPS did not violate its own policies by choosing to amend the GMP. Director's Order #2 requires that the GMP be reviewed every 10 to 15 years; it may be amended, rather than revised, if conditions and management prescriptions over most of the area covered by the GMP remains essentially the same. In this case, the changed conditions do not necessarily require a complete revision of the GMP. The added consideration of two listed species—the sea beach amaranth and piping plover—does not constitute enough of a change in conditions or management prescriptions to trigger the revision requirement. These species are not located in “most of the area” covered by the GMP. NPS has put other efforts in place to assess the effects of the GMP on these species, even if they are not discussed in detail in the Amendment. The proposed actions to protect these species are generally the same as those proposed to protect the loggerhead turtle, the status of which was addressed in the original GMP. The seashore meets guidelines established by the U.S. Fish and Wildlife Service for protection of plovers, turtles, and seabeach amaranth and provides them with an annual report on each species.

The Amendment recognized one significant change from the original GMP, namely an increase in day-use visitation in the lighthouse area, and identified specific management prescriptions to address this phenomenon.

**Comment:** NPS should have prepared an Environmental Impact Statement (EIS).

**Response:** One of the categories of actions that the NPS has identified for which an EIS is normally is prepared is a GMP for a major unit of the National Park System. This can be read

as meaning preparing, rather than amending, a GMP. In any case, the NPS may decide, to evaluate an action for which an EIS is normally required, to prepare an Environmental Assessment (EA) and make it available for public comment. In other words, NPS policies and procedures do not actually require that an EIS be prepared for a GMP amendment, as long as the NPS uses the EA to take a hard look at the possible impact of the proposed action.

**Comment:** The Amendment failed to provide sufficient information about the ferry concession contract, such as the term, the level of service, and conditions to ensure conservation of the Seashore. Moreover, the EA failed to address the environmental impacts of the ferry operations.

**Response:** The ferry concessions are not new operations, but are continuations of two routes that have been in place since 1982. The only recommended change to the ferry concessions proposed plan and alternative is increasing the duration of the contracts from annual or biannual to long term. The location of the ferry piers would not change. The level of service would not change; traditional use patterns would continue. Concessioners would have to upgrade and maintain docking facilities and work with the NPS and other groups to develop interpretive programs and listed species awareness programs.

A GMP is a general planning document. Details such as terms and conditions of contracts are more appropriately discussed in an implementation-planning document or in the contracts themselves. The only environmental impact of the proposed extensions to the ferry concessions contract per se is discussed in the EA, and the conclusion is that such impacts will be “negligible.” The increase in visitors due to an improved infrastructure would be minimal, compared with the significantly larger numbers of day visitors that do not use the ferries.

**Comment:** The Amendment failed to provide sufficient information about the proposed cabins, such as their ability to withstand storm conditions. Construction of the cabins might violate the Coastal Barrier Resources Act (CBRA). The EA did not evaluate sufficiently the environmental impact of the cabins, including the resulting increase in visitation on

wildlife, or discuss the mitigation measures that would accompany construction.

**Response:** The Amendment makes clear the NPS' commitment to ensure that the cabins will satisfy requirements relating to construction in hurricane-prone areas. Construction of cabins on the Seashore is not, in and of itself, illegal, and the Amendment states that the Service will build the new cabins to comply with all applicable laws.

Construction of these cabins is not subject to CBRA, which applies only to the Coastal Barrier Resources System (System). Not only does the definition of "undeveloped coastal barrier" under CBRA expressly exclude barrier islands that are "included within the boundaries of an area established under Federal law primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes," but the Seashore is located in an area designated as "otherwise protected," i.e. outside of and not subject to the requirements applicable to the System.

We believe that the EA contains an adequate discussion of potential new effects of cabin construction. The cabins would still be separated from important threatened and endangered species habitat. Construction would not occur in the beach area or specific locations of the listed species. The general nature of these impacts, and of the proposed mitigation activities, is consistent with the nature of the Amendment as a general planning document and of the EA as a brief and concise environmental analysis.

**Comment:** The Amendment did not evaluate adequately the effects of the proposed actions on state-listed sensitive species, by failing to list those species at all, and on endangered or threatened species. The EA failed to address the possible effects of ferry and small craft activities on the piping plover and the seabeach amaranth, species that were not listed when the original GMP was finalized.

**Response:** The discussions of the effects of the proposed actions on Federally listed species is sufficiently specific for an EA, especially when the conclusion of the EA is that the proposal will not have a significant impact. The Amendment and the EA both discuss numerous potential impacts and how they are or will be addressed. This includes the discussion of the effects of the proposal on the piping plover and seabeach amaranth. Many of the actions that are proposed to protect the loggerhead turtle will protect these species as well.

The Amendment acknowledges that some documented human interference with turtle and plover nests have

occurred, but that it has not been demonstrated that they have had a significant effect on either species. Nonetheless, additional mitigation measures will be taken in response to this interference, along with the continuation of current mitigation. No new impacts on listed species are contemplated.

We acknowledge that the Amendment and EA did not address or mention the impact of the proposals on state-listed sensitive species. The revised Amendment/EA will do so.

**Comment:** The Amendment did not sufficiently address concerns about the effects of ORVs and other recreational vehicles.

**Response:** The Amendment is not an entirely new GMP. It discusses only specific changes; accordingly, the EA would address the environmental effects only of those changes. The EA is not required to address the effects of ORV and recreational activity already contemplated by the original GMP. The only possible environmental effects related to ORVs and recreation associated with proposal apparent in the Amendment are indirect, namely related to an increase in recreational activity due to an increase in visitors that would flow from additional cabins. The Amendment and the EA clearly address the potential impacts of the proposal as related to ORV and recreational activities and the way the NPS can address those impacts. The documents acknowledge that the NPS has not yet systematically monitored the effects of ORVs, if any, on listed species, and that NPS has committed to perform such monitoring before scheduling construction of the cabins. Note that two proposed alternatives were rejected because of the likelihood that they would increase ORV and recreational use.

**Comment:** The EA failed to review an adequate range of alternatives and did not evaluate a true "no action" alternative.

**Response:** The basic policy objectives behind the Amendment are stated succinctly at several places: "to ensure the protection of the natural and cultural environment, including federally listed species, while allowing appropriate levels and types of visitor use;" and to select an action that "most improves visitor services while continuing to preserve and protect the seashore's natural resources." Alternatives that are wholly inconsistent with these policy objectives, or are wholly infeasible or ineffective, need not be considered. For instance, no alternatives were proposed that involved the elimination of cabins or ORVs. One of the key features of the Seashore is the availability of its 50-mile shoreline for surf-

fishing, it is reasonable to conclude that a proposal to eliminate overnight sleeping facilities and use of ORVs that would greatly reduce accessibility to such a feature would be considered inconsistent with those policy objectives. Omitting such an alternative from the Amendment and the EA was reasonable.

Arguably, the “no action” alternative—the continuation of existing conditions—would be inconsistent with basic policy objective or would be infeasible or ineffective. However, we also acknowledge that an EA should contain a discussion of a “no action” alternative. The revised document contains such a discussion. Note that the no action alternative would continue existing conditions, and would not provide for the elimination of all cabins and ORVs.





## Appendix E

### COMMENTS AND RESPONSES FOR DECEMBER 2000 DRAFT PLAN

#### Comments and Responses

This appendix responds to comments about the Draft GMP/EA issued in December 2000.

**Comment:** The statement that Cape Lookout National Seashore marks the northernmost edge of the range of the Loggerhead turtle is incorrect.

**Response:** Cape Lookout National Seashore is part of the northernmost nesting range of the Loggerhead sea turtle. They nest at Cape Hatteras National Seashore and occasionally in Virginia.

**Comment:** The statement that Cape Lookout National Seashore provides one of the southernmost habitats for the federally listed piping plover is incorrect.

**Response:** Cape Lookout National Seashore is the southernmost nesting range of the piping plover. Rare nesting events (one nest each time) occurred in South Carolina in 1991 and 1993.

**Comment:** We question the use of adventitiously to describe seabeach amaranth growth at Cape Lookout National Seashore.

**Response:** Seabeach amaranth is an annual that reproduces by seeds and adventitiously takes advantage or appears in suitable habitat and conditions. To avoid further confusion we have substituted the term “in suitable habitat and conditions” for the word adventitiously in the revised document.

**Comment:** While May through the end of August may reflect breeding dates, it does not accurately reflect piping plover use during spring and fall migration, nor does it reflect those plovers that winter, or spend a portion of their wintering range use, at the seashore.

**Response:** Some piping plovers migrate through the seashore. The US Fish and Wildlife Service is in the process of designating critical habitat for wintering piping plovers. It does not appear at this time that the cabins, ferry landings, or

parking lots will be located in those critically designated areas.

**Comment:** The plan contends that seabeach amaranth are found in the marsh areas of the Core Banks. What does this mean? The species has been only observed in sandy, beach flats, that one would not normally associate with being a marsh.

**Response:** Seabeach amaranth occurs in open sandy areas, not the marsh.

**Comment:** Concern over the channel being maintained at the 3-foot depth necessary to accommodate vehicle ferries by kicking-out built up sand and silt deposits with engines of the boat. What compliance review of this activity has occurred? Have state and federal permits been issued that authorize this dredging activity?

**Response:** This comment is referring to normal passage of the ferry, not prop dredging. This is not a new activity and is referenced in the 1982 GMP. The State of North Carolina applied for and received a permit to dredge the Channel into the Long Point cabin area. This is not a shorebird nesting area and the closest possible piping plover nesting area is two miles away. The proposed dredge disposal area is only 90 feet long and in no conceivable manner could stabilize a 22-mile long island and negate normal washover processes.

**Comment:** Do existing ORV levels harm the piping plover? And, has the NPS complied with relevant procedures in assessing harm and jeopardy to the plover?

**Response:** The NPS follows U.S. Fish and Wildlife Service guidelines for posting nesting areas and close off the beach if any piping plover chicks venture on the beach. In 12 years of monitoring, the NPS has not documented any piping plover chicks or adults being run over by vehicles or any nests being run over. There may have been some mention of vehicles entering closed areas in the 1989 report by McConnaughey, by no such instances have occurred in the last several years.

Compliance with U.S. Fish and Wildlife guidelines does not mean that the species will flourish. In 12 years of monitoring

the piping plover population on the Core Banks, the NPS has not detected an adverse impact on piping plovers.

**Comment:** The NPS discusses long-term parking of vehicles at the seashore. Are the ORVs leaking fuel, oil, coolant, or other hazardous substances?

**Response:** Direct and indirect impacts that may be attributed to ORVs, such as indicated above, will be addressed by the park's upcoming ORV plan.

**Comment:** The bald eagle is not listed as endangered. The U.S. Fish and Wildlife Service downlisted the eagle to threatened in 1995. Likewise, the U.S. Fish and Wildlife Service delisted the peregrine falcon.

**Response:** The comments are correct; the bald eagle is presently threatened and the peregrine falcon has been delisted.

**Comment:** Concerning ORV threats to turtles, in some instances ORVs have driven through closed areas. Thus, while the NPS does undertake protection efforts, ORV drivers do not always comply with these efforts.

**Response:** The NPS erects vehicle barricades around all relocated and non-relocated sea turtle nests. ORV traffic is routed around the backside of the nests to prevent vehicle ruts from occurring in front of these nests. Some vehicles will illegally drive around these barricades particularly at low tide.

**Comment:** Additional detail should be provided about the status of the piping plover (including threats) and efforts to conserve the plover at the seashore.

**Response:** The park continues to meet U.S. Fish and Wildlife Service guidelines for protection especially in closing nesting areas and foraging areas for chicks. Since 1989, the NPS has not documented any plovers or nest being run over by ORVs.

**Comment:** In discussing the seabeach amaranth, the NPS states that it foresees no feasible protection efforts necessary for this plan. This sentence should be clarified.

**Response:** The seashore has not documented any disturbance of this plant by ORVs. Should the park determine that plants are occurring in areas in which ORVs may affect them

then those areas would be closed. The NPS placed a turtle enclosure cage over one plant in 2000.

**Comment:** What are the effects of the proposed activity on the state-listed species?

**Response:** The park has not documented or does it anticipate any adverse impacts on state-listed species or species already occurring in protected areas.

**Comment:** The proposals, properly considered, unquestionably would adversely affect listed species. Likewise, we question whether the seashore is adequately complying with U.S. Fish and Wildlife protocols for managing piping plovers.

**Response:** The NPS coordinates its plover protection program through the U.S. Fish and Wildlife Service (978-443-4325). The NPS prepares an annual report on piping plovers to that agency and participates in their annual conference. ORVs illegally driving around turtle closures constitutes the only documented disturbance to threatened and endangered species at the seashore.

**Comment:** In discussing exotic vegetation, the NPS should address whether ORVs are capable of spreading exotics in beach habitats.

**Response:** The NPS is not aware of any research regarding the spread of exotic vegetation by ORVs in coastal habitats. Considering the effects of salt spray and the unstable nature of the islands, most vegetation that is not native to such conditions would not survive unless planted and maintained.

**Comment:** We question the conclusion that additional protective measures are not warranted, either under the existing situation or under the proposal. How can the NPS ensure that vehicles do not "take" federally protected species?

**Response:** In the summer of 2000, under the authority of the superintendent's compendium, the park lowered the speed limit from 35 mph to 25 mph. Although vehicles drive around turtle closures there has been no documented "take." The NPS sends annual report on turtles, piping plovers, and seabeach amaranth to the U.S. Fish and Wildlife Service.

**Comment:** The proposed action will irreversibly or irretrievably commit resources; once a channel is dredged, for example, it will be very difficult, if not impossible, to undo. Finally, taking a listed species is an irreversible act.

**Response:** The channel existed prior to the establishment of the park. Again, there has been no documentation of a “taking” of a listed species.

**Comment:** The NPS states that the piping plover and the seabeach amaranth are not located in most of the areas covered by the GMP. According to the NPS piping plover records, breeding is distributed throughout the seashore beach area of the Core Banks, including Portsmouth Flat, Whalebone Inlet, Old Drum Inlet, New Drum Inlet, and Power Squadron Spit Point. Sea turtles nest along the entire length of the seashore. The comments also reflect a need to revise the GMP.

**Response:** None of the piping plover nesting areas sited in the comment are in the same areas as the cabins or the ferry landing sites. Sea turtle nest anywhere on the beach. The park takes protection measures for turtles that are reviewed by the U.S. Fish and Wildlife Service. In accord with NPS policies and procedures, the park has requested funding to initiate a new GMP.

**Comment:** The park’s protection efforts for seabeach amaranth and piping plover ignore many critical ways in which these species and their management differ.

**Response:** Again, the park meets U.S. Fish and Wildlife guidelines for the protection o plovers. Seabeach amaranth, and turtles and provides the agency with an annual report on each species.





As the Nation's principal conservation agency, the Department of the Interior has the responsibility for most of our nationally owned public lands and natural and cultural resources. This includes fostering wise use of our land and water resources, preserving the environment and cultural values of our national parks and historic places, and providing for the enjoyment of life through outdoor recreation. The department assesses our energy and mineral resources and works to insure that their development is in the best interest of all our people. The department also promotes the goals of Take Pride in America campaign by encouraging stewardship and citizen responsibility for the public lands and promoting citizen participation in their care. The department also has a major responsibility for American Indian reservation communities and for people who live in island territories under U.S. administration.